Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Petition of Gregory Manasher, *et al.,* for a	)	
Declaratory Ruling On Applicability of the	)	
Communications Act and Commission Rules	)	CG Docket No. 98170
regarding Truth-in-Billing	)	
	)	
On Referral by the United States District	)	
Court for the Eastern District of Michigan	)	

REPLY COMMENTS OF GREGORY MANASHER AND FRIDA SIROTA TO INITIAL COMMENTS OF NASUCA AND ITTA

We support NASUCA's comments that the FCC has found truth-in-billing rules to enforce section 201(b) of the Act, 47 U.S.C. sec. 201(b) are necessary to protect consumers. This is in contrast to IITA's assertion that consumers are adequately protected by industry self-regulatory incentives. As NASUCA explains, the FCC stated in its 1999 order adopting truth-in-billing rules that "[t]he record in this proceeding persuades us that **unclear** or cryptic telephone bills exacerbate consumer confusion, as well as the problems of cramming and slamming" (*In the Matter of Truth-in-Billing and Billing Format*, 14 F.C.C.R. 7492, par. 39 (1999), emphasis added).

Moreover, the FCC recently adopted additional rules to address cramming, because "[t]he record in this proceeding … suggests that cramming is a significant and ongoing problem that has affected telecommunications consumers for over a decade" (*In the Matter*

of Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges ("Cramming"), 27 F.C.C.R. 4436, par. 1 (2012)). Furthermore, the FCC rejected the essence of IITA's claim, finding that "[d]espite these [ILEC] voluntary industry practices, there is strong evidence that they have been ineffective to prevent cramming, and that cramming is still a significant problem for consumers" (27 F.C.C.R. 4436, par. 9, footnote omitted). In this regard, it is important to recognize that "the cramming entity can be the customers' own telecommunications service provider" (27 F.C.C.R. 4436, fn. 5), as alleged in *Manasher v. NECC Telecomm*, Case No. 2:06-cv-10749 (E.D. Mich.).

Therefore, as the FCC has previously determined that cramming is an unjust and unreasonable practice prohibited by section 201(b) of the Act (27 F.C.C.R. 2246, par. 4 and fn. 5), and that "[r]equiring clear descriptions of billed charges will assist consumers in understanding their bills, and thereby, deter slamming, as well as cramming" (27 F.C.C.R. 4436, par. 38), the FCC should determine that violations of the truth-in-billing rules due to unclear billing information are also violations of section 201(b) of the Act. Thus, as the FCC has also previously determined that misleading or deceptive billing information is an unjust and unreasonable practice in violation of section 201(b)(*In the Matter of Truth-in-Billing and Billing Format*, 14 F.C.C.R. 7492, 7506 (1999)), then the FCC should determine that violations of the truth-in-billing rules - **whether arising from unclear, misleading or deceptive billing information** - are also violations of section 201(b) of the Act.

With regard to Reply Comments filed by United States Telecom Association (USTA), we note that the FCC specifically stated in its Public Notice for Comment that the court, in referring a list of certified questions to the FCC, emphasized that it was not asking

the FCC to make factual findings pertinent to the case. For this reason, USTA's comments related to factors and context necessary to make factual determinations are not responsive to the FCC's Public Notice.

Respectfully Submitted:

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